



Montana Fish & Wildlife Commission

MINUTES

Montana Fish and Wildlife Teleconference Commission Meeting

Steve Bullock, Governor

FWP Headquarters

1420 East 6th Avenue, Helena, MT

August 26, 2014

Dan Vermillion, Chairman
PO Box 668
Livingston, MT 59047
406-222-0624
District 2

Commission Members Present: Dan Vermillion, Chairman, Richard Stuker Vice-Chairman, and Gary Wolfe via telephone; Matthew Tourtlotte via video

Gary J. Wolfe
4722 Aspen Drive
Missoula, MT 59802
406-493-9189
District 1

Fish, Wildlife & Parks Staff Present: Jeff Hagener, Director and FWP Staff.

Guests: August 26, 2014 - See Commission file folder for sign-in sheet.

Richard Stuker
1155 Boldt Road
Chinook, MT 59523
406-357-3495
District 3

Topics of Discussion:

1. Call to Order and Pledge of Allegiance
2. Approval of Minutes of August 7, 2014 Commission Meeting
3. Approval of Commission Expenses
4. Commission Reports
5. Director's Report
6. Water Supply Update
7. Deep Creek Water Right Negotiation with the City of Townsend – Endorsement
8. Beaver Creek County Park (Hill County) Fishing and Boating Easement Access – Endorsement
9. Approval of Future Fisheries Improvement Projects – Final
10. Otter Island Fisheries Conservation Area Additions – Final
11. 2014 Late Season Migratory Bird Regulations – Final
12. 2104 CSKT Upland Bird and Waterfowl Regulations – Final
13. York Gulch Access Easement – Final
14. Public Comment – For Issues Not On This Agenda

Larry Wetsit
121 East Indian Street
Wolf Point, MT 59201
406-650-7071
District 4

Matthew Tourtlotte
940 Blonco Circle
Billings, MT 59105
406-698-9696
District 5

1. Call to Order - Pledge of Allegiance

Chairman Vermillion called the meeting to order at 8:36 a.m. and led the Pledge of Allegiance.

2. Approval of Minutes of August 7, 2014 Commission Meeting

Action: Commissioner Stuker moved and Commissioner Tourtlotte seconded to postpone the approval of the August 7, 2014 minutes until the October 16 meeting. Motion carried.

3. Approval of Commission Expenses

Action: Commissioner Stuker moved and Commissioner Tourtlotte seconded the motion to approve the Commission expenses. Motion Carried.

4. Commission Reports

Commissioner Tourtlotte stated it has been a quiet couple weeks; received comments on wolf stamp.

Commissioner Stuker stated he has received numerous wolf stamp comments; hoot owl restrictions on the Dearborn, Sun and Smith rivers have been rescinded; approved five elk and one deer damage hunt in Region 4.

Chairman Vermillion stated there were issues on the Boulder River; commends the Department for quickly rescinding the hoot owl restrictions on the Dearborn, Sun and Smith rivers. Region 3 Supervisor Pat Flowers has retired; the record of accomplishments and the legacy he leaves behind is very substantial; he will be missed.

Commissioner Wolfe stated he has had numerous conversations and correspondence regarding the wolf stamp; attend the wolf stamp public hearing; comments were 55% for and 45% against proposal;

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interesting hearing. Approved eight game and supplemental game damage hunts primarily for antlerless elk in Region 2.

5. Director's Report

Director Hagener stated the US Fish and Wildlife Service (FWS) has determined the wolverine and arctic grayling are not warranted for listing. The Department hosted the Tri-State meeting with Idaho and Wyoming in mid August; good discussions on several issues, especially the delisting of grizzly bears.

6. Water Supply Update

Bruce Rich, Chief of Fisheries stated the weekend weather pattern provided a lot of precipitation; flooding on the Missouri River above Fort Peck and the Musselshell River, otherwise the state is in good shape.

7. Deep Creek Water Right Negotiation with the City of Townsend – Endorsement

Bruce Rich, Chief of Fisheries explained Deep Creek is an important spawning tributary for the Missouri River. During summer and early fall, irrigation withdrawals reduce stream flows in Deep Creek, which negatively impacts the fishery; in 2013 the water flow substantially improved when a major irrigator began withdrawing water from the Broadwater-Missouri Canal rather than Deep Creek. It may not be possible to sustain flow improvements without legally changing existing irrigation rights to instream flow. The City of Townsend has the second priority irrigation water rights on Deep Creek and desires to pursue negotiations of a water right lease to FWP; FWP has statutory authority to temporarily change leased water rights to instream flow; the city council approved moving forward with negotiations on July 15; the lease agreement is subject to final Commission approval. To change a portion of the water right to instream flow, FWP must make application to Department of Natural Resource and Conservation (DNRC); public process would take place and potential affected parties would have the opportunity to comment on the change; DNRC would conduct an environmental review of the proposed change.

Action: *Commissioner Wolfe moved and Commissioner Stuker seconded the motion that FWP negotiate a water-right lease agreement with the City of Townsend for irrigation water rights from Deep Creek, subject to final approval by the FW Commission.*

Chairman Vermillion asked for public comment.

Action on Motion: *Motion passed.*

8. Beaver Creek County Park (Hill County) Fishing and Boating Easement Access – Endorsement

Bruce Rich, Chief of Fisheries explained Beaver Creek Reservoir is located in Hill County within the larger Beaver Creek Park complex; within Beaver Creek Park is another reservoir known as Bear Paw Reservoir; FWP has had an easement to manage Bear Paw as a recreation site since 1964 and stocks the reservoirs with fish. Several years ago, Hill County began charging day use fees at Beaver Creek Park with the exception of Bear Paw FAS; January 2014 those fees were increased by 30 percent for day use and 40 percent for an annual pass. Local anglers and FWP oppose fees for anglers because FWP spends approximately \$15,000 annually to stock the reservoir and creek with fish; without the use of license fees from anglers, the fish stocking program would be either nonexistent or operating at a much lower level. FWP is proposing to negotiate an agreement with Hill County that would exempt anglers and boaters from paying an entrance fee or annual fee to either fish or boat within Hill County Park. The agreement would ideally include Beaver Creek Reservoir, Bear Paw Reservoir and Beaver Creek; Hill County would be able to continue charging for other non boating/angling activities such as camping, picnicking, swimming, etc. FWP met with Hill County Commissioners and Hill County Park Board to discuss access fees being applied to boaters and anglers and conceptual solutions to the fee.

Action: *Commissioner Stuker moved and Commissioner Tourtlotte seconded the motion that the FW Commission authorize FWP to pursue an agreement with Hill County and the Hill County Park Board regarding user fees for anglers and boaters in Beaver Creek Park.*

Commissioner Stuker stated he spoke with Hill County Commissioner Mark Peterson; willing to negotiate an agreement with the Department that will benefit all sides.

Chairman Vermillion asked for public comment.

Action on Motion: *Motion passed.*

9. Approval of Future Fisheries Improvement Projects – Final

Bruce Rich, Chief of Fisheries explained the Future Fisheries Improvement Program continues to provide funds for projects that restore fishery habitats in streams, rivers, and lakes for the benefit of wild fisheries. Applications are reviewed twice each year by a 14-member citizen panel appointed by the Governor and recommendations are forwarded to the Commission every six months for consideration and approval. For the summer 2014 funding cycle, the citizen panel recommends funding 10 of 13 submitted proposals at a Program cost of \$261,376; matching funds or in-kind contributions from outside sources total \$1,328,686. The public is informed and can comment about program funding opportunities via news releases, a public meeting, and information posted on FWP's website. The citizen panel conducted a public meeting to review applications, discuss proposed projects with applicants in attendance, and receive public comment; no public comment was received at the meeting, except from applicants in attendance. An environmental assessment (EA) was individually prepared for 7 of the 10 projects recommended for funding; the three exceptions either fell under a categorical exclusion,

National Environmental Policy Act (NEPA), or were part of a larger project where the EA was completed externally. The comment period for six of the seven drafted EAs ended August 18; the final internal EA ended August 25; no comments were received.

Future Fisheries Summer 2014 Funding Cycle Project Ranking:

PROJECT #	PROJECT NAME	PROGRAM COST	FINAL RANK
011-14	Bean Creek Channel Restoration	\$14,945.00	1
021-14	Sauerkraut Creek Phase 2 Channel Restoration	\$34,500.00	2
012-14	Deadmans Basin Diversion Dam Fishway	\$82,400.00	3
016-14	Liverpool Creek Fish Passage/Entrapment/Flow	\$11,255.00	4
017-14	North Fork Blackfoot River Instream Flow Enhancement	\$35,000.00	5
013-14	East Gallatin Restoration at Story Mill	\$51,953.00	6
014-14	Keep Cool Fish Passage Improvement	\$ 8,500.00	7
020-14	Prickly Pear Spring Creek Bank Stabilization	\$ 6,323.00	8
023-14	Tenmile Creek Bank Stabilization and Fencing	\$15,100.00	9
022-14	Spokane Creek Riparian Fence	\$ 1,400.00	10

Action: *Commissioner Stuker moved and Commissioner Wolfe seconded the motion that the FW Commission approve the Future Fisheries Citizen Panel funding recommendations for the summer 2014 funding cycle of the Future Fisheries Improvement Program.*

Chairman Vermillion asked if 100% of the available funds were used for this funding cycle.

Jim Darling, FWP Fisheries Habitat Bureau Chief stated at the beginning of this funding cycle the indemnity trust fund had \$567,467 and license fund \$128,834 availability.

Chairman Vermillion asked if the difference will be replenished for next year.

Darling replied one more cycle still remains for this year, and any funds left over will be replenished for next year.

Chairman Vermillion asked why three grants were not approved.

Darling replied inadequate application, or the panel deemed poorly described and/or lack of design; applicants have been invited to return for the next funding cycle.

Chairman Vermillion asked for public comment.

Action on Motion: *Motion passed.*

10. Otter Island Fisheries Conservation Area Additions – Final

Bruce Rich, Chief of Fisheries explained on June 14, 2012, the Commission endorsed FWP's request to evaluate four parcels along the upper Flathead River for potential purchase, including two located just south of Otter Island Fisheries Conservation Area (FCA). FWP now proposes to acquire these two parcels that total 19.72 acres. If acquired, these parcels will be added to the existing Otter Island FCA that is located along the west side of the mainstem Flathead River. The purpose of the proposed acquisitions is to expand protection of riparian and wetland habitats along the Flathead River mainstem, islands, and side channels for the benefit of fish and wildlife species. The additions would be purchased below appraised value (addition #1 \$108,800 and addition #2 for \$48,960/\$157,760) using fisheries mitigation funds from the Bonneville Power Administration (BPA) to help offset the fishery impacts due to inundation of the lands behind Hungry Horse Dam. The parcels would be managed for their habitat values and dispersed public recreation as part of FWP's Otter Island FCA and guided by the revised Otter Island FCA Management Plan. If completed, the acquisition of these properties would complete 2.5 miles of connected public land ownerships along the west side of the Flathead River mainstem from the north end of Old Steel Bridge FAS to the south end of DNRC's Owen Sowerwine Natural Area. A draft EA was issued to the public through legal ads, press releases, and emails/letters to all adjoining landowners and other interested parties; seven comments were received supporting the proposed project and none against. The EA considered the no-action alternative, under which the private landowners would continue to own these properties and the parcels would most likely be sold on the private market and possibly developed. The EA identified benefits to riparian and wetland habitat as well as public recreation opportunities of FWP ownership of these parcel, and did not find any significant negative impacts associated with proceeding with the proposed action. These additions to Otter Island FCA will secure and protect fish and wildlife habitat along the Flathead River, consolidate FWP ownership in the Otter Island-Old Steel Bridge area, improve management and enforcement efficiencies, and maintain public access for 2.5 miles along the western bank of the Flathead River.

Action: *Commissioner Wolfe moved and Commissioner Tourtlotte seconded the motion that the Commission approve FWP's fee acquisitions of the Otter Island Fisheries Conservation Area Addition #1 and Otter Island Fisheries Conservation Area Addition #2, as described in the July 31 Decision Notice.*

Chairman Vermillion asked for public comment.

Action on Motion: Motion passed.

Chairman Vermillion stated he received several calls from individuals who are concerned about an overharvest on catfish and asking how to petition the Department on a regulation change; would like the Department to look at the situation for next year.

Rich duly noted Chairman Vermillion's comments.

11. 2014 Late Season Migratory Bird Regulations – Final

Ken McDonald, Chief of Wildlife stated with the exception of the below proposed changes, all other late season migratory bird regulations are unchanged from 2013. Public comment ended 5 p.m., Friday, August 22; 13 comments were received, generally supportive.

Central Flyway

- **Youth Waterfowl Season:** September 27 - 28 (2 days - limits below apply)
 - **Duck, Coot, Goose, and Tundra Swan Seasons:**
 - Zone 1 counties for ducks/coots/swans: Montana's portion of Central Flyway minus Big Horn, Treasure, Rosebud, Custer, and Prairie Counties.
 - Zone 1 counties for geese: Montana's portion of Central Flyway minus Big Horn, Treasure, Rosebud, Custer, Prairie, Carbon, and Yellowstone Counties.
 - Zone 2 counties for ducks/coots/swans: Big Horn, Treasure, Rosebud, Custer, and Prairie Counties.
 - Zone 2 counties for geese: Big Horn, Treasure, Rosebud, Custer, Prairie, Carbon, and Yellowstone Counties.
 - **Ducks:** Daily bag limit shall be 6 ducks or mergansers, possession limit 3 times daily limit. Daily bag limit shall not include more than 5 mallards no more than 2 of which may be hens, 2 redheads, 2 hooded mergansers, 3 wood ducks, 2 pintails, and 1 canvasback. During the first 16 days of the regular duck season in both Zones (October 4 - 19), the daily bag may include 2 additional blue-winged teal.
 - **Coots:** 15 daily, possession limit 3 times the daily limit.
 - **Geese:** Dark- 5 daily; White – 20 daily; possession limit 3 times the daily limit for both dark and white.
- **Duck, Coot, and Tundra Swan (500 permits only) Seasons:**
 - Zone 1 counties for ducks/coots/swans: October 4 - January 8.
 - Zone 2 counties for ducks/coots/swans: October 4 - October 19 and November 1 - January 20; closed October 20 - 31.
- **Goose Season:**
 - Zone 1 counties for geese: October 4 - January 11 and January 17 - 21; closed January 12 - 16.
 - Zone 2 counties for geese: October 4 - October 19 and November 1 - January 28; closed October 20 - 31.
- **Falconry:**
 - **Ducks and coots:**
 - Zone 1 counties for ducks/coots: September 24 - January 8.
 - Zone 2 counties for ducks/coots: September 24 - October 19 and November 1 - January 20.
 - **Geese:**
 - Zone 1 counties for geese: October 4 - January 11 and January 17 - 21; closed January 12 - 16.
 - Zone 2 counties for geese: October 4 - 19 and November 1 - January 28; closed October 20 - 31.

Pacific Flyway

- **Youth Waterfowl Season:** September 27 - 28 (2 days - limits below apply).
- **Ducks and coots:** October 4 - January 11 and January 17 - 21 (105 days); closed January 12 - 16.
 - **Ducks:** Daily bag limit shall be 7 ducks or mergansers, possession limit 3 times the daily limit. Daily bag limit shall not include more than 2 hen mallards, 2 pintails, 2 redheads, and 1 canvasback.
 - **Coots:** 25 daily and in possession.
- **Goose season:** October 4 - January 11 and January 17 - 21 (105 days); closed January 12 - 16.

- Geese:
 - Dark - 4 daily, possession limit 3 times the daily limit.
 - White - 20 daily, possession limit 3 times the daily limit.

- **Swan (500 permits only) Season:**

October 11 - December 1.

- **Falconry dates:**

- Ducks, coots, and geese: October 4 - January 11 and January 17 - 21; closed January 12 - 16.

Action: *Commissioner Tourtlotte moved and Commissioner Stuker seconded the motion that the Commission adopt the final 2014 late season migratory bird regulations as presented by FWP.*

Chairman Vermillion commends the Department on getting season split accomplished; Commission is very interested in making sure zone 1 and zone 2 are consistent with ducks and geese.

McDonald stated under the federal framework, the first opportunity for proposing zones and splits for duck is 2016, and it is on the Departments to-do list.

Action on Motion: *Motion passed.*

Chairman Vermillion noted that no public comment was taken because there is no change from tentative.

12. 2104 CSKT Upland Bird and Waterfowl Regulations – Final

Ken McDonald, Chief of Wildlife explained the Confederated Salish and Kootenai Tribes (CSKT) and the State of Montana have entered into a cooperative management agreement on the Flathead Reservation that provides for presentation and approval of the Tribal bird season frameworks to the Commission. Regional FWP staff is included in the development of Tribal waterfowl regulations, which are set within federal frameworks in the Pacific Flyway. Tribal recommendations are first presented to the Flathead Reservation Fish and Wildlife Board who vote on the tentative proposals and then ask for public comment before final adoption. Adopted final proposals are then presented to the CSKT Council; FW Commission endorsement is subject to final Tribal Council approval. The significant differences between these Tribal regulations and the current or proposed FWP waterfowl and upland bird regulations are:

- Tribal shooting hours are sunrise to sunset for all pheasant and partridge hunting (no grouse may be taken).
- No hunting with falcons on the Flathead Indian Reservation.
- A requirement that only non-toxic shot be used for all game birds on the Flathead Indian Reservation.

Action: *Commissioner Wolfe moved and Commissioner Stuker seconded the motion that the FW Commission endorse the Confederated Salish and Kootenai Tribes waterfowl and pheasant/partridge regulations as presented and subject to final Tribal Council approval.*

Chairman Vermillion asked for public comment.

Action on Motion: *Motion passed.*

13. York Gulch Access Easement – Final

Ken McDonald, Chief of Wildlife explained in 2005, Montana FWP Foundation, (renamed The Montana's Outdoor Legacy Foundation (MOLF)) acquired 287 acres of contiguous patented mining claims through a donation, with the intent of re-conveying the property to the Helena National Forest (HNF) when purchase monies became available. The Black Bear Road that accesses the property is the principle access to the York Gulch area and surrounding HNF lands, but due to multiple small parcels of private land consisting of old mining claims along this route, legal public access to the Foundation's property and USFS land does not currently exist. Prickly Pear Land Trust (PPLT) is a partner with the MOLF and the US Forest Service (FS) in conveying the inholdings in the York Gulch area to the FS. PPLT, FS, and MOLF initially pursued legal public access via 2.5 miles across 24 tracts of land held under 14 different landowners along Black Bear road, it was determined it was not possible due to the complexity of individual expectations and demands by the landowners. This access project was originally proposed in March 2013, an alternate route was identified along FS Road 4136-A4 that crosses private lands (five mining claims) to the east of the MOLF's property that could provide access; this property was owned by the Tiddy Family for many years. To achieve the goal of acquiring the inholdings and secure access, PPLT purchased the Tiddy property. The alternate access to the MOLF's York Gulch property via the PPLT property is acceptable to the FS and the MOLF's funding partners. The Department is asking to use FWP Access Public Lands Program project funds previously approved, be approved to gain public access to the MOLF's York Gulch property via the PPLT property. The value of the Black Bear road access route were projected to be \$67,100 using past easement purchase data from FWP; the easement value of the Tiddy property, using the same data is estimated at \$57,500 (\$50,000 per mile). An EA has been completed with two comments received by the public; one in support and one in opposition. A Decision Notice was issued August 13, 2014, accepting the proposed action to purchase a public road easement for public use that is currently closed to the public, providing for public access in perpetuity.

Action: *Commissioner Tourtlotte moved and Commissioner Wolfe seconded the motion that the FW Commission approve the decision to use FWP Access Public Lands Program funds to purchase the public access right-of-way easement along the proposed route to provide access to land which will be administered by the Helena National Forest.*

Chairman Vermillion asked where the funding comes from.

McDonald stated the majority of the funding comes from Come Home to Hunt license monies, earmarked monies for securing access from private land to public land; gave background and future information regarding this program.

Commissioner Wolfe thanked the Prickly Pear Land Trust and the Montana Outdoor Legacy Foundation for the partnership and work on this project.

Chairman Vermillion concurred with Commissioner Wolfe's comments and thanked former residents who helped fund the public access program.

Chairman Vermillion asked for public comment.

Andy Bauer, PPLT executive director, thanked all partners involved; great project for the community of York.

Jeanne Holmgren, FS, thanked the Department for the partnership, the Home to Hunt program, PPLT and MOLF.

John Hagenruber, FS, thanked the Department and Commission for considering a great project; will help ensure access to the Big Belts for a long time.

George Bettes, MOLF executive director; thanked all parties involved; property was contributed to the foundation 10 years ago; should close sometime this fall but will be open for access and hunting.

Chairman Vermillion asked the Department to form a fact sheet on access Montana money and how it has been spent; sportsmen/women will realize how much public access the Home to Hunt program has created; a lot more public support will come forward.

McDonald duly noted Chairman Vermillion's comments.

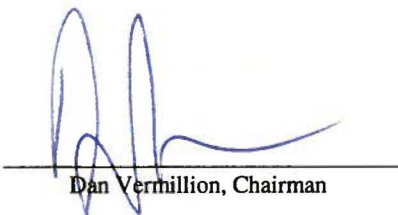
Action on Motion: *Motion passed.*

14. Public Comment – For Issues Not On This Agenda

Mark Peterson, Hill County Commissioner, appreciates Region 6 Supervisor Tom Flowers' help on the Beaver Creek project; will be better for all parties involved.

Action: *Commissioner Stuker moved and Commissioner Tourtlotte seconded the motion to adjourn the meeting. Motion Passed.*

The meeting adjourned at 9:26 a.m.



Dan Vermillion, Chairman



M. Jeff Hagener, Director